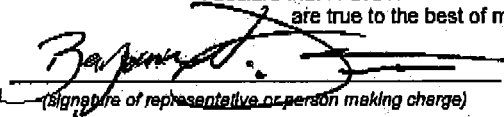


UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case 02-CA-250602	Date Filed 10/23/19

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT			
a. Name of Employer Barstool Sports Inc		b. Tel. No. 212-899-9975	
		c. Cell No.	
		f. Fax. No. 212-956-1971	
d. Address (Street, city, state, and ZIP code) 15 W. 27th Street New York, New York		e. Employer Representative Seth D. Kaufman Fisher & Phillips LLP 620 Eighth Avenue, 36th Floor New York, New York 10018	
		g. e-mail skaufman@fisherphillips.com	
		h. Number of workers employed 65	
i. Type of Establishment (factory, mine, wholesaler, etc.) Media company		j. Identify principal product or service Sports news and entertainment	
<p>The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.</p>			
<p>2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) See rider attached</p>			
<p>3. Full name of party filing charge (if labor organization, give full name, including local name and number) Industrial Workers of the World Freelance Journalists Union</p>			
<p>4a. Address (Street and number, city, state, and ZIP code) c/o Eisner & Dictor P.C. 39 Broadway, Suite 1540 New York, New York 10006</p>		4b. Tel. No. 347-850-7628	
		4c. Cell No.	
		4d. Fax No.	
		4e. e-mail freelancejournalists@iww.org	
<p>5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) Industrial Workers of the World</p>			
<p style="text-align: center;">6. DECLARATION</p> <p>I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.</p> <p> Benjamin N. Dictor</p> <p>(Signature of representative or person making charge) (Print/type name and title or office, if any)</p>		<p>Tel. No. 212-473-8700</p> <p>Office, if any, Cell No.</p> <p>Fax No. 212-473-8705</p> <p>e-mail ben@eisnerdictor.com</p>	
<p>Address <u>39 Broadway, Suite 1540, New York, New York 10006</u> Date <u>10/23/2019</u></p>			

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

Rider to
National Labor Relations Board
Charge Against Employer

Re: Barstool Sports

Basis of the Charge

- (1) On or about August 14, 2019, the Employer posted/tweeted a video through one of the Employer's official Twitter accounts (@Barstoolsports) with the title "What would happen if Barstool tried to unionize." The video also contained statements intended to give employees the impression that the Employer was spying on employees. The video was posted in order to discourage employees from engaging in protected concerted activities and/or to discourage union activities.
- (2) On or about August 14, 2019, the Employer posted/tweeted a video through one of the Employer's official Twitter accounts (b) (6), (b) (7)(C) with the title (b) (6), (b) (7)(C). The video contained multiple threats of the loss of certain wages and/or benefits, as well as conveyed a message that selecting a union would be futile.
- (3) On or about August 14, 2019, the Employer published an episode of its podcast, *The Dog Walk*, that contained threats to employees of adverse consequence if they support a union, engage in union activity, or select a union to represent them, and conveyed a message that selecting a union would be futile.
- (4) On August 13, 2019, the Employer created a Twitter account with the name "Barstool Sports Union" under the handle @BSSUnion. The account was used by the employer to falsely represent that it was the account of a labor organization representing or seeking to represent the employees of the Employer. Since August 13, 2019, the Employer has used the Barstool Sports Union to spy on employees and to give the impression that it was spying on employees.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BARSTOOL SPORTS INC.

Charged Party

and

**INDUSTRIAL WORKERS OF THE WORLD
FREELANCE JOURNALISTS UNION**

Charging Party

Case No. 02-CA-250602

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I Robin Brown-Dawkins, the undersigned employee of the National Labor Relations Board, state under oath that on October 25, 2019, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Barstool Sports, Inc.
Attn: Dave Portnoy, President
15 West 27th Street, 3rd Floor
New York, NY 1001

Steven M. Bernstein, Esq., Labor Counsel
Fisher & Phillips, LLP
620 Eighth Avenue, Suite 3650
New York, NY 10018

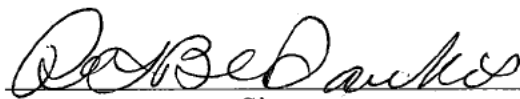
Seth Kaufman, Esq.
Fisher & Phillips, LLP
620 Eighth Avenue, Suite 3650
New York, NY 10018

October 25, 2019

Date

Robin Brown-Dawkins, Designated Agent
of NLRB

Name



Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
26 Federal Plaza, Room 3614
New York, NY 10278-3699

Agency Website: www.nlr.gov
Telephone: (212)264-0300
Fax: (212)264-2450



Download
NLRB
Mobile App

October 25, 2019

Barstool Sports, Inc.
Attn: Dave Portnoy, President
15 West 27th Street, 3rd Floor
New York, NY 1001

Re: Barstool Sports Inc.
Case No. 02-CA-250602

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Senior Field Attorney RUTH WEINREB whose telephone number is (212)776-8651. If this Board agent is not available, you may contact Supervisory Field Attorney KAREN M. NEWMAN whose telephone number is (212)776-8631.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "John J. Walsh, Jr.", written in a cursive style.

John J. Walsh, Jr.
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire

cc: Steven M. Bernstein, Esq. Labor Counsel
Fisher & Phillips, LLP
620 Eighth Avenue, Suite 3650
New York, NY 10018

Seth Kaufman, Esq.
Fisher & Phillips, LLP
620 Eighth Avenue, Suite 3650
New York, NY 10018

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Barstool Sports Inc.

CASE NUMBER

02-CA-250602

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)**YES NO**A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$ _____B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$ _____C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$ _____D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$ _____E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$ _____F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$ _____G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$ _____H. **Gross Revenues** from all sales or performance of services (*Check the largest amount*)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. **Did you begin operations within the last 12 months?** If yes, specify date: _____**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (*If yes, name and address of association or group.*)**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRENAME AND TITLE (*Type or Print*)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

BARSTOOL SPORTS INC.

Charged Party

and

**INDUSTRIAL WORKERS OF THE WORLD
FREELANCE JOURNALISTS UNION**

Charging Party

Case No. 02-CA-250602

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I Robin Brown-Dawkins, the undersigned employee of the National Labor Relations Board, state under oath that on October 25, 2019, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

Barstool Sports, Inc.
Attn: Dave Portnoy, President
15 West 27th Street, 3rd Floor
New York, NY 1001

Steven M. Bernstein, Esq., Labor Counsel
Fisher & Phillips, LLP
620 Eighth Avenue, Suite 3650
New York, NY 10018

Seth Kaufman, Esq.
Fisher & Phillips, LLP
620 Eighth Avenue, Suite 3650
New York, NY 10018

October 25, 2019

Date

Robin Brown-Dawkins, Designated Agent
of NLRB

Name

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 2
26 Federal Plaza, Room 3614
New York, NY 10278-3699

Agency Website: www.nlrb.gov
Telephone: (212)264-0300
Fax: (212)264-2450



Download
NLRB
Mobile App

October 25, 2019

Eisner & Dictor P.C.
c/o Industrial Workers of the World
Freelance Journalists Union
39 Broadway, Suite 1540
New York, NY 10006

Re: Barstool Sports Inc.
Case No. 02-CA-250602

The charge that you filed in this case on October 23, 2019 has been docketed as case number 02-CA-250602. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Senior Field Attorney RUTH WEINREB whose telephone number is (212)776-8651. If this Board agent is not available, you may contact Supervisory Field Attorney KAREN M. NEWMAN whose telephone number is (212)776-8631.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: Pursuant to Section 102.5 of the Board's Rules and Regulations, parties must submit all documentary evidence, including statements of position, exhibits, sworn statements, and/or other evidence, by electronically submitting (E-Filing) them through the Agency's web site (www.nlr.gov). You must e-file all documents electronically or provide a written statement explaining why electronic submission is not possible or feasible. Failure to comply with Section 102.5 will result in rejection of your submission. The Region will make its determination on the merits solely based on the evidence properly submitted. All evidence submitted electronically should be in the form in which it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

If the Agency does not issue a formal complaint in this matter, parties will be notified of the Regional Director's decision by email. Please ensure that the agent handling your case has your current email address.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



John J. Walsh, Jr.
Regional Director

cc: Benjamin Dictor, Esq.
Eisner & Dictor, P.C.
39 Broadway, Suite 1540
New York, NY 10006-3091



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 02
26 Federal Plz Ste 3614
New York, NY 10278-3699

Agency Website: www.nlrb.gov
Telephone: (212)264-0300
Fax: (212)264-2450

December 18, 2019

David A. Rosenfeld, Attorney at Law
Weinberg, Roger and Rosenfeld
1001 Marina Village Parkway, Suite 200
Alameda, CA 94501

Re: Barstool Sports, affiliated with The Chernin
Group, LLC
Case 31-CA-246638

Dear Mr. Rosenfeld:

We have carefully investigated and considered your charge that Barstool Sports, Inc. has violated the National Labor Relations Act.

Decision to Approve Settlement Agreement: On December 2, 2019, you were sent a copy of the attached Settlement Agreement and Notice, and you were advised at that time to submit any objections that you had to the proposed Settlement Agreement and Notice. Thereafter, you filed numerous objections to the Settlement Agreement and Notice.

In your first objection, you contend that (b) (6), (b) (7)(C), the main actor alleged in your unfair labor practice charge, should be required to personally sign and email the Settlement Agreement to employees and communicate to the public that (b) (6), (b) (7)(C) has agreed not to violate the Act. You also contend that (b) (6), (b) (7)(C) should personally send out tweets to notify employees about the settlement and to tweet the terms of this Settlement Agreement to employees employed by other employers. I find no merit to these objections since the Employer has agreed to sign and email the Notice to all employees employed by the Employer and to post the Notice at its headquarters and satellite offices. The emailing and posting of the Notice adequately remedy the violations in this case.

In your second objection, you contend that the Employer should personally give the Settlement Agreement to the Charging Party and be required to notify Twitter that the NLRB has required the Employer to remove (b) (6), (b) (7)(C) tweets. The Settlement Agreement provides for the removal of (b) (6), (b) (7)(C) August 13, 2019 tweets which include the alleged unlawful threats. The Employer's agreement to remove these tweets adequately remedies the alleged unfair labor practices herein and thus, the personal delivery of the Agreement is unwarranted.

In your third objection, you requested a non-standard Notice posting period. Your objections did not provide any authority in support of this request. In any event, I find that the standard 60-day Notice posting and the standard remedial language contained in the Notice will adequately remedy the alleged violations in this case.

In your fourth objection, you contend that a formal settlement is required because the Employer's alleged unfair labor practices were in response to the filing of a charge. Pursuant to Section 10164.3 of the Board's Casehandling Manual, a formal settlement agreement is only warranted where there is: 1) a history of unfair labor practices; 2) a likelihood of recurrence or extension of the instant unfair labor practices; 3) continuing violence or a likelihood of recurring violence; or 4) a back pay installment schedule covering an extended period of time. While the Employer entered a settlement agreement in this matter, there is no other recent history of meritorious unfair labor practice charges. Regarding the second factor, there is no evidence that the Employer is likely to engage in conduct similar to the one at issue in the instant charge. Finally, the instant case does not involve any allegations of violence or awards of back pay. In these circumstances, I cannot conclude that a formal settlement agreement is warranted in this matter.

In your fifth and sixth objections, you contend that the Employer should be required to communicate the Notice by tweets, which is the same manner the unlawful conduct was communicated and that if President Trump can use twitter then so should (b) (6), (b) (7)(C). These objections are not supported by any case law and do not appear to be valid objections to the Settlement Agreement. The General Counsel has not required the pinning of Notices in all cases involving Twitter and since the unfair labor practices are not egregious enough to warrant an extraordinary remedy, the Region concluded that the pinning of the Notice was not warranted. The Region determined that the communication of the Notice should be done in the way in which the Employer customarily communicates with its employees. As described above, the posting and emailing of the Notice provide an adequate remedy.

Accordingly, in view of the terms the Charged Party has agreed to in the attached Settlement Agreement, I have determined that it would not effectuate the purposes of the National Labor Relations Act to institute further proceedings at this time. I am, therefore, approving the Settlement Agreement and refusing to issue a complaint in this matter.

Please note that Respondent need not comply with the performance provision of the bilateral Informal Settlement Agreement in related cases 02-CA-246836 and 02-CA-250602 until the review process regarding the objections in 31-CA-246638 is completed.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

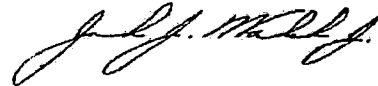
Appeal Due Date: The appeal is due on **January 2, 2020**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than January 1, 2020. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before January 2, 2020**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after January 2, 2020, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required

by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



John J. Walsh, Jr.
Regional Director

Enclosure

Seth Kaufman, Esq.
Fisher & Phillips, LLP
620 8th Ave Fl 36
New York, NY 10018-1593

Barstool Sports, Inc.
Attn: Dave Portnoy, President
15 West 27th Street, 3rd Floor
New York, NY 10001

Benjamin N. Dictor, Esq.
Eisner & Dictor, P.C.
39 Broadway, Suite 1540
New York City, NY 10006

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF
Barstool Sports, Inc.

Cases 02-CA-246836
02-CA-250602
31-CA-246638

Subject to the approval of the Regional Director for the National Labor Relations Board, the Charged Party and the Charging Party **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICE — After the Regional Director has approved this Agreement, the Regional Office will send copies of the approved Notice to the Charged Party in English and in additional languages if the Regional Director decides that it is appropriate to do so. A responsible official of the Charged Party will then sign and date those Notices and immediately post them where employment notices are customarily posted in the Charged Party's New York headquarters office and its satellite offices in Dallas, Tx; Chicago, Il., Watertown, MA and Los Angeles, CA. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting.

EMAILING OF NOTICE— A responsible official of the Charged Party will then sign and date those Notices and immediately email copies of the Notice to the known email addresses of all employees employed by the Charged Party as of August 13, 2019. The Charged Party will provide the Regional Director written confirmation of the date of emailing and a list of names and email addresses of employees to whom the Notices were emailed.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

NON-ADMISSION: The signing of this Settlement Agreement does not constitute an admission that the Charged Party violated the National Labor Relations Act

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), including all allegations covered by the attached Notice to Employees made part of this agreement, and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the undersigned Regional Director. In that case, a Charging Party may request review of the decision to approve the Agreement. If the General Counsel does not sustain the Regional Director's approval, this Agreement shall be null and void.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original

notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes 
Initials

No _____
Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Regional Director, or if the Charging Party does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the General Counsel has sustained the Regional Director.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days' notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director may issue a Complaint that includes the allegations covered by the Notice to Employees, as identified above in the Scope of Agreement section, as well as filing and service of the charge(s), commerce facts necessary to establish Board jurisdiction, labor organization status, appropriate bargaining unit (if applicable), and any other allegations the General Counsel would ordinarily plead to establish the unfair labor practices.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

Charged Party Barstool Sports, Inc. (b) (6), (b) (7)(C) 12/2	Charging Parties Industrial Workers of the World Freelance Journalists Union/ The Committee to Preserve the Religious Right to Organize
By: _____ Name and Title Date (b) (6), (b) (7)(C) Print Name and Title below	By: Benjamin N. Dictor Name and Title Date December 10, 2019 Print Name and Title below Benjamin N. Dictor, Counsel Industrial Workers of the World
Recommended By: Ruth Weinreb Senior Field Attorney Date 12/11/19	Approved By: John Walsh, Jr. Regional Director, Region 2 Date 12/18/19

(To be printed and posted on official Board notice form)

THE NATIONAL LABOR RELATIONS ACT GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

WE WILL NOT threaten to discharge or sue our employees by tweet or any other manner if they support, seek assistance from or make inquiries about any labor organization.

WE WILL NOT poll our employees through any tweets or any other manner in order to determine their support for any labor organization.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL remove from (b) (6), (b) (7)(C) Twitter Account (b) (6), (b) (7)(C) the two tweets (b) (6), (b) (7)(C) made on August 13, 2019 referencing discharging and suing employees if they support, seek assistance from or make inquiries about any labor organization.

WE WILL remove from our website the video, (b) (6), (b) (7)(C) which was posted on August 14, 2019.

WE WILL remove the @BSSUNION Twitter Account.

Barstool Sports, Inc.

(Employer)

Dated: 12/2

By: (b) (6), (b) (7)(C)

(Representative)

(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB.

(1-844-762-6572). Hearing impaired callers who wish to speak to an Agency representative should contact the Federal Relay Service (link is external) by visiting its website at <https://www.federalrelay.us/fly> (link is external), calling one of its toll free numbers and asking its Communications Assistant to call our toll free number at 1-844-762-NLRB.

26 Federal Plz Ste. 3614
New York, NY 10278-3699

Telephone: (212)264-0300
Hours of Operation: 8:45 a.m. to 5:15 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE
This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.



United States Government
NATIONAL LABOR RELATIONS BOARD
Region 2
26 Federal Plaza – Room 3614
New York, New York 10278-0104

December 20, 2019

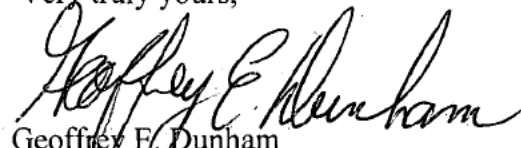
Seth Kaufman Esq.
Fisher & Phillips, LLP
620 Eighth Avenue, Suite 3650
New York, NY 10018

Re: Barstool Sports, Inc.
Case No.02-CA-250602

Dear Mr. Kaufman:

This is to inform you that I have approved the withdrawal of the portion of the above-referenced charge which alleges that the above-named Employer violated Section 8(a)(1) of the National Labor Relations Act ("Act") by, (i) posting the video, "What would happen if Barstool tried to unionize", that allegedly gave employees the impression that the Employer was engaged in the surveillance of their union activities; (ii) posting the video (b) (6), (b) (7)(C), that allegedly threatened employees with a loss of benefits, the outsource of work, onerous working conditions, and the loss in wages; (iii) publishing the August 14, 2019 episode of its podcast, *The Dog Walk* that allegedly threatened employees with adverse consequences if they unionize; and (iv) posting on Twitter @BSSUNION to create an impression of surveillance. The remainder of the charge is being retained for further processing.

Very truly yours,


Geoffrey E. Dunham
Acting Regional Director

cc:

Benjamin Dictor Esq.
Eisner & Dictor, P.C.
39 Broadway, Suite 1540
New York, NY 10006-3091

Industrial Workers of the World Freelance Journalists Union
c/o Eisner & Dictor P.C.
39 Broadway, Suite 1540
New York, NY 10006

David Portnoy, President
Barstool Sports, Inc.
15 West 27th St., 3rd Floor
New York, NY 10001